

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

YANCY WALKER,)	
)	
Plaintiff,)	
)	
v.)	Case No.: CIV-16-117-W
)	
GUIDEONE MUTUAL INSURANCE)	
COMPANY,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant, GuideOne Mutual Insurance Company (“Defendant”), pursuant to 28 U.S.C. § 1441 *et seq.*, and LCvR 81.2 of the United States District Court for the Western District of Oklahoma, hereby files its Notice of Removal. In further support, Defendant states:

1. The above styled case was commenced in the District Court of Beckham County, State of Oklahoma on January 8, 2015, and is now pending in that Court.
2. Suit was filed against Defendant, GuideOne Mutual Insurance Company (hereinafter “GuideOne”) on February 9, 2015.
3. Process was served on GuideOne by certified mail to the Oklahoma Insurance Commissioner on February 17, 2015. GuideOne filed its Answer to Plaintiff’s Petition on March 10, 2015.
4. Pursuant to the requirements of 28 U.S.C. § 1446(a), the following process, pleadings, and orders are attached:

Exhibit No.	Title of Pleading
1	Petition
2	Summons issued to attorney to serve
3	Summons Returned
4	Amended Petition
5	Alias Summons issued to attorney to serve: Betty Moore
6	Summons issued to attorney to serve: GuideOne
7	Alias Summons issued to attorney to serve
8	Summons Returned Signed by Sabrina Syker
9	Entry of Appearance Thomas Manning
10	Answer of Defendant Betty Moore
11	Certificate of Service
12	Summons returned served Betty Moore: on 2-19-15
13	Summons returned served GuideOne: on 2-17-15
14	Defendant GuideOne Mutual Insurance Company's Answer To Plaintiff's Amended Petition
15	Dismissal without Prejudice
16	Joint Protective Order
17	Motion to Associate Counsel
18	Agreed Order Admitting to Practice
19	Motion for a Scheduling Conference
20	Order for Hearing
21	Scheduling Order
22	Court Minute Order regarding Mediation Deadline
23	Joint Motion for Extension of Deadlines and Pretrial Conference

Exhibit No.	Title of Pleading
24	Defendant GuideOne's Motion for Summary Judgment
25	Order granting Joint Motion to Extend Deadlines and Pretrial Conference
26	Plaintiff's Response and Objection to Defendant GuideOne's Motion for Summary Judgment.
27	Defendant GuideOne's Reply in Support of its Motion for Summary Judgment
28	Court Minute Order dated 1-20-16
29	Plaintiff's Motion to Compel Performance of Subpoena Duces Tecum to Mark Warman
30	Decision
31	Certificate of Mailing

5. This action is one of a civil nature in which the District Courts of the United States have original jurisdiction pursuant to 28 U.S.C. § 1332, said action having been brought by the Plaintiff against GuideOne for money damages arising from the alleged breach of contract and negligence of GuideOne.
6. Plaintiff is and has been at all pertinent times, a resident of Roger Mills County, State of Oklahoma. *See* **EXHIBIT 1**, Petition and **EXHIBIT 4**, Amended Petition.
7. GuideOne Mutual Insurance Company, is an Iowa Corporation doing business in the State of Oklahoma.
8. This action is being removed to the proper federal district court. The pertinent language of 28 U.S.C. § 1446(a) provides that the defendant shall file the Notice of Removal in "the District Court of the United States for the district and division within

which such action is pending.” 28 U.S.C. § 1446(a). Currently, this action is pending in the District Court of Beckham County, State of Oklahoma. The Western District of Oklahoma includes the County of Beckham County. *See* 28 U.S.C. § 116(c). Therefore, removal to this Court is proper.

9. The Tenth Circuit Court of Appeals has explained “[t]he right of removal depends upon the case disclosed by the pleadings when the petition therefore is filed.” *Woerter v. Orr*, 127 F.2d 969 (10th Cir. 1942). As disclosed by the pleadings, Plaintiff’s claim is seeking damages in excess of \$75,000.00. *See* **EXHIBIT 4** at pgs 3 and 4.
10. On February 9, 2016, Defendant GuideOne became aware, through email correspondence with Plaintiff’s counsel, that Co-Defendant Betty Moore had tendered her policy limits, thereby foreclosing her participation in this lawsuit. **EXHIBIT 32**, Email Correspondence dated 2-9-16.
11. A Dismissal with Prejudice has not yet been entered in this case on behalf of Defendant Moore, however, her policy limits have been tendered. Regardless, Defendant GuideOne is filing this Removal as February 9, 2016 is the one-year deadline for removal.
12. Pursuant to 28 U.S.C. § 1446(b)(3), since Defendant Moore has tendered her policy limits and is no longer a part of the instant lawsuit, complete diversity of citizenship exists between the only actionable parties.

13. This case has been removed within the one-year requirement, *See* 28 U.S.C. § 1446(c)(1).
14. Pursuant to LCvR 81.2(a), a copy of the State Court Docket Sheet is attached as **EXHIBIT 33**.
15. Pursuant to 28 U.S.C. § 1446(d), GuideOne will serve written notice of the filing of this Notice of Removal upon Plaintiff. GuideOne has filed a copy of the Notice of Removal with the Clerk of the District Court in and for Beckham County, State of Oklahoma.

WHEREFORE, for the reasons set forth herein, GuideOne Mutual Insurance Company respectfully submits that the requirements for removal have been satisfied, as complete diversity of citizenship exists, and the amount in controversy exceeds \$75,000.00.

GIVENS LAW FIRM

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 2016, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Mark W. Albert
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-and-

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